# BUILDING A BANKING UNION IN THE EUROPEAN UNION – A SOLUTION TO THE FINANCIAL CRISIS?

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**Abstract:**

*The financial crisis of 2008 highlighted the need for a deeper integration of the banking system, as a warranty to support long-term financial stability. It was argued that the grounds of the crisis lie also in an uncoordinated national response to the failure of banks, in a fragmentation of the Single Market in lending and funding and, therefore, a better regulation and supervision of the financial sector can ensure financial stability and growth in the European Union.*

*In order to restore the proper functioning of the internal market and to avoid future crisis, the European Commission launched a set of initiatives, in order to assure a safer and sounder financial sector for the single market; are included here: stronger prudential requirements for banks, improved depositor protection and rules for managing failing banks and a single rulebook for all the 28 Member States of the European Union. The single rule book is the step towards the Banking Union sits.*

*The banking union consists of three pillars: a Single Supervisory Mechanism, a Single Resolution Mechanism and a joint deposit-insurance scheme.*

*As on 4 November 2014 the European Central Bank assumed responsibility for euro area banking supervision, the Banking Union is still under construction.*

*In this framework, the purpose of my paper is to analyse the process of building a Banking Union in Europe. Therefore, the objectives of my paper are to explore the steps to fulfilling a real integration of the European banking system, as a solution to the financial crisis.*

**Keywords:** *Banking Union, European Central Bank, financial crisis, euro area, integration.*

## 1. Introduction:

As we well know, the financial crisis started at the end of 2009 as a banking crisis in the United States of America, but it spread quickly and evolved as a debt crisis in the Eurozone and, afterword, in Europe as a whole. The questions about the future of the Euro and also of the European Union increased, while many voices criticized and argued the measures taken by the European leaders in order to respond to and prevent any negative effects and, in the end, to prevent the collapse of the banking system.

A problem to one credit institution can spread quickly to other financial actors, while affecting depositors, investments and even the entire economy, a fact which represent a real threat to the stability of the financial system in European Union. Actually, this threat was frequently explained by the use of the *"too big to fail"* theory[1].

Therefore, having in mind that European Union's banking system is vulnerable to shocks, in response, the European Union and its member states have been focusing on strengthening financial sector supervision. In this context, given the economic interdependence within the member states, which was accentuated by the crisis, the issue of a deeper integration was launched.

Consequently, my paper covers the process of building a Banking Union in Europe, as a potential solution, meant to prevent any future crisis and to strengthen the Euro zone.

The importance of my study lies in the fact that it covers a highly topical issue, which is now of real relevance for the integration of the European Union, in the banking sector, being a subject of interest not only for specialists, but also for any citizen of the member states.

In this highlight, the objectives of my paper are: to explore the steps towards a real integration of the European banking system, by building a Banking Union for the Euro area; to understand why the Economic and Monetary Union needs a Banking Union, and, finally, to analyse this project, seen as potential solution to the financial crisis.

To answer at these objectives, I will start by dividing my paper in two sections: The steps towards a Banking Union (A), Banking Union as a potential solution to the financial crisis (B).

The topic is of recent development, but, given its great importance, the existent specialized literature has debated this subject. This paper will try to make an

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[1] For further details on *"too big to fail theory"* see George G. Kaufman, *Too Big to Fail in Banking: what does it mean?*, special paper 222, LSE Financial Market Group Special Paper Series, at Loyola University Chicago and Federal Reserve Bank of Chicago, June 2013, ISSN 1359-9151-222**.**

According to Kaufman, "A TBTF firm is generally a large complex firm that is perceived to require either or both special regulation to discourage failure while alive and/or a special resolution regime when dead in which governments can intervene and not have the insolvent firm resolved through the usual resolution (bankruptcy) processes that apply to other firms in the same industry, at least with respect to allocating losses.".

objective and understandable analysis of an issue on which we can argue, without exaggerating, that changes the face of the European Union.

## 2. Content

### A. The steps towards a Banking Union

Looking back in the history of the European Union, we can say that Banking Union is indeed the most important European project undertaken, as a form of deeper integration, since the building of the Economic and Monetary Union and the introduction of euro as a common currency of the member states.

The project was launched in the summer of 2012, but evolved surprisingly quickly. The idea was to fight against financial fragmentation problem, which was seen as one of the euro crisis causes.

Even if last year European Central Bank assumed the responsibility for euro area banking supervision[2], moment considered to be of great importance, the project is still under construction. It is built on several legislative acts, by which is meant to ensure the stability of the financial system and to prevent triggering in the future one of the crisis realities – meaning to ensure that banks and their shareholders and no longer taxpayers, will carry the risks and will pay for eventual losses.

It is important to point out that banking union is designed for the countries in the Euro Zone, which are *de jure* involved in the project. But, according to the SSM Regulation, the European member states which have not adopted the euro as national currency may opt in, but on a voluntary basis.

The project is based on a concept of common financial market regulation, the so-called Single Rulebook. It consists on horizontal sets of rules, which apply to all member states of the European Union, namely capital requirements for banks[3] (CRD IV package) and provisions of the Bank Recovery and Resolution Directive (BRRD)[4].

The Banking Union project is built on three pillars:

- a European system for banking supervision - Single Supervisory Mechanism (SSM), by which European Central Bank (ECB) is in charge;
- a European mechanism for the resolution of insolvent banks - Single Resolution Mechanism (SRM), which implies a European Resolution Authority and a European Resolution Fund to finance resolution measures; and
- a joint deposit-insurance scheme – which implies common standards for deposit guarantee schemes of member states.

Hereinafter some basic information about the three pillars of the European Banking Union project:

Regarding the first pillar, the legal framework at EU level for Single Supervisory Mechanism is based, at this moment, on following acts:

- Council Regulation No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (known as SSM Regulation);
- Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (known as SSM Framework Regulation);
- Decision of the European Central Bank of 31 January 2014 on the close cooperation with the national competent authorities of participating Member States whose currency is not the euro (ECB/2014/5);
- Regulation (EU) No 1163/2014 of the European Central Bank of 22 October 2014 on supervisory fees (ECB/2014/41).

Under the SSM Regulation, European Central Bank is responsible for the direct supervision of the credit institutions considered to be significant in the euro area, while national supervisors will continue to carry out the supervision for the other credit institutions, considered to be less significant, but under its ultimate responsibility. According to the first article of the regulation, its scope is to contribute to the safety and soundness of credit institutions, to the stability of the European financial system and to ensure consistent supervision.

In order to prevent a potential conflict of interests, there were established clear rules to assure the organizational and operational separation of the European Central Bank competences in the area of supervision and of monetary policy.

November 4, 2014 marked the ending of the preparatory phase for the SSM, which included an in-depth examination of the resilience and balance sheets of the biggest banks in the euro area: European Central Bank assumed responsibility for euro area banking

[2] ECB assumed responsibility for Euro Area supervision on November 4, 2014.

[3] The main legislative texts are:

Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (CRD IV);

Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.

[4] Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (BRR Directive).

supervision, which meant a clear and important step towards Banking Union.

SSM Regulation established the ground rules for the functioning of the Single Supervisory Mechanism. The operational arrangements needed for the implementation of the tasks conferred upon ECB by the Regulation are contained in the Framework Regulation, which further develops and specifies the cooperation procedures established in the SSM Regulation between European Central Bank and the national competent authorities within the Single Supervisory Mechanism and ensures the effective and consistent functioning of the SSM.

As for the Member States whose currency is not the euro, ECB decision of 31 January 2014 establishes the procedure to be followed in order to enter in a close cooperation with the European Central Bank.

As for the second pillar, the legal framework at EU level for Single Resolution Mechanism is based, at this moment, on following acts:

- Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (known as BRR Directive);
- Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (known as SRM Regulation);
- Council Implementing Regulation (EU) 2015/81 of 19 December 2014 specifying uniform conditions of application of Regulation (EU) No 806/2014 of the European Parliament and of the Council with regard to ex ante contributions to the Single Resolution Fund;
- Intergovernmental Agreement (IGA) on the Single Resolution Fund;
- Communication from the Commission on the application, from 1 August 2013, of the state aid rules to support measures in favour of banks in the context of the financial crisis;

The Bank Recovery and Resolution Directive entered into force on 2 July 2014 and had to be transposed into national law by the Member States by December 31, 2014.

It establishes a common framework for the recovery and resolution of banks and investment firms across the European Union and provides the ways in which the credit institutions in difficulty can be rescued without requiring taxpayer bailouts.

The BRRD sets out the rules for the resolution of banks and large investment firms in all European Union Member States. Banks are required to prepare recovery plans to overcome financial distress. Authorities have also a set of powers to intervene in the operations of banks to avoid them failing or to restructure them, allocating losses to shareholders and creditors, by following a clearly defined hierarchy. There are also provided powers to implement plans to resolve failed banks in a way that preserves their most critical functions and avoids taxpayers having to bail them out.

As for the financing, member states are required, to set up ex-ante resolution funds to ensure that the resolution tools can be applied effectively. In the case of euro area Member States, from 2016, these funds will be replaced by the Single Resolution Fund.

The Single Resolution Mechanism is designed for the euro area. The main purpose of the Single Resolution Mechanism is to ensure that eventual future bank failures in the banking union are managed efficiently, with minimal costs to taxpayers and the real economy. The manner of implementation is similar to the Single Supervisory Mechanism, meaning that European Central Bank will have the ultimate responsibility for the resolution of all banking cases in the euro area, but the tasks will be divided between the Single Resolution Mechanism and the national authorities; similar to the first pillar, the Single Resolution Mechanism will be directly responsible for the significant banks and cross-border cases.

Without prejudice to the main purpose - that any resolution is first financed by a bank and its shareholders, and if necessary also partly by a bank's creditors - there will also be another funding source available to appeal to, if neither the contributions of shareholders nor those of a bank's creditors are sufficient. To this end, the Single Resolution Fund (SRF) was established through an Intergovernmental Agreement, which contains the provisions relating to the transfer of contributions and mutualisation of the SRF.

The Single Resolution Fund together with European Stability Mechanism (ESM) facility and the Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (DGS) represents the third pillar of the Banking Union.

The objective of Directive 2014/49/EU is to ensure a quick compensation of bank account holders in case of a bank failure. The current deadline for compensation of 20 working days is reduced to seven working days. The DGS sets the threshold of 100 000 euro for depositor protection. It requires higher amounts to be protected if they are temporarily high balances arising from, from example house sales. Also, the directive provides a funding mechanism in several steps and restrictions on investment of the financial means, with the scope to ensure that the deposit guarantee schemes dispose of financial means that are proportionate to their liabilities and that these financial means are safeguarded against potential losses.

**B. Banking Union as a potential solution to the financial crisis**

The project of Banking Union was promoted and presented by the European leaders as a viable solution to the financial crisis. But, first of all, before trying to understand the reasons why it can be a real solution and if it is indeed a solution and not a disguised form of centralising power and decisions at the European Union level, we have to answer at one important question: *why Economic and Monetary Union needs a Banking Union?*

With a euro crisis as a premises, Banking Union was designed as a fundamental complement to the Economic and Monetary Union (EMU) and to the internal market; if EMU had the purpose to promote a single currency in the European Union, Banking Union is to align responsibility for supervision, resolution and funding at a centralized – European Union level and to harmonize the rules across the euro area.

The Report of the Four Presidents *"Towards a genuine Economic and Monetary Union" (EU, 2012)*[5] argues that the euro area needs stronger mechanisms to ensure sound national policies so that Member States can reap the full benefits of the EMU. This is essential to ensure trust in the effectiveness of European and national policies, to fulfil vital public functions, such as stabilization of economies and banking systems, to protect citizens from the effects of unsound economic and fiscal policies, and to ensure high level of growth and social welfare.

Its conclusion is that the EMU requires an integrated financial framework or a Banking Union built on three pillars: a single supervisory mechanism, a single resolution mechanism and a single deposit guarantee scheme. President Van Rompuy also adds that there is a crucial need for a Single Rule Book and for an harmonized application of EU rules.

Indeed, despite of the critics launched by the Euro sceptics, the EMU and the single European currency attracted obvious advantages and benefits to individuals, to business and to the whole economies of the member states, like: stable prices for consumers and citizens; the exclusion of the currency risk between euro area countries has been eliminated, which contributed to foster growth and maintain stability; greater security and more opportunities for businesses and markets; more integrated financial markets; moreover the trade and the labour mobility were stimulated.

However, all this advantages were not sufficient for the euro member states to avoid the sovereign debt crisis, which had great negative impact on them and threatened also the survival of the single currency.

The crisis brought important lessons, but one of the most important was that the monetary union was incomplete and the fragmentation of the banking system was one of its causes.

This is why how banking union fully completes the EMU and European leaders believed that its achievement is to create a "genuine" EMU. The EMU needs a Banking Union, because a stable financial system is necessary to safeguard the stability of the euro area and ensure the effective transmission of a single monetary policy.

Christian Noyer in *"Why the Economic and Monetary Union need a banking union"*[6] argued the importance of the project for the euro in an objective and conclusively manner. He said that the key to banking union can be summed up as follows: the aim is to find a way to ensure that banks in the euro area are considered precisely as that, as "euro area banks", and not as "Irish", "German" or "Italian" banks. In other words, the goal is to ensure that credit conditions in the euro area will not depend on *where* you are but on *who* you are, which is what should be expected of an efficient financial market.

Crisis management process in European Union implied a set of important measures meant not only to solve the problem in the near future, but to create a stable system, no more vulnerable to shocks. The EU response to crisis is not the topic of this paper, but, in order to create a full view of the context, the package of measures implied important actions like: the implementation of adjustments programs, the creation of the European Financial Stability Facility (EFSF) and European Stability Mechanism (ESM), the adoption of the "six-pack" and the Treaty on Stability, Coordination and Governance (TSCG)[7], the adoption of the Single Rule-Book, the ECB framework for Outright Monetary Transactions etc.

Banking Union project is one of these measures, advanced as a major potential solution to the financial crisis, but a measure which involves much more than the foregoing ones, first of all because it represents a transfer of sovereignty from national to European level and the enhancement of the European Central Bank's role and importance.

First of all, by the implementation of this project, as part of crisis management programme, it can reduce fragmentation of European banking markets, because an integrated system would involve uniform means of enforcement and would annihilate national distortions

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[5] Towards a genuine Economic and Monetary Union, 5 December 2012, Herman Van Rompuy, President of the European Council in close collaboration with: José Manuel Barroso, President of the European Commission, Jean-Claude Juncker, President of the Eurogroup, Mario Draghi, President of the European Central Bank, accessed February 15, 2015, at:
http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/134069.pdf.

[6] Christian Noyer: "Why the Economic and Monetary Union needs a banking union", address by Mr Christian Noyer, Governor of the Bank of France and Chairman of the Board of Directors of the Bank for International Settlements, at the Lamfalussy Lectures Conference "The euro dilemma: inside or outside?", Budapest, 31 January 2014, accessed February 15, 2015, at:
http://www.bis.org/review/r140205e.htm;

[7] It is formed by Five Regulations and one Directive (that is why it is called six-pack) and covers not only fiscal surveillance, but also macroeconomic surveillance under the new Macroeconomic Imbalance Procedure;

of actions which are to affect the stability of the financial system. In this line, the responsibility for the banking supervision and for the financial support is transferred at a centralised level.

While Single Supervision Mechanism helps to uniform the supervision practices and the risk management in the participating member states, the Single Resolution Mechanism enables intervention in a timely manner to address weak banks and prevent contagion across the system.

The main reason it is necessary to create a banking union with a supervisory mechanism at the EU level has to do with the importance of financial stability and market integration, which are not occurring at the same time at the national level. This is what Shoenmaker calls ‘the financial trilemma.’ This theory suggests that policymakers can choose only two of the three following objectives: financial stability, financial integration and national financial policies (such as bank supervision and resolution). This is because ‘national financial policies usually fail to recognize the externality generated by cross-border banks in difficulty.’ In fact, financial integration at the EU level gives rise to the supranational interdependence of financial agents.

Regulating these supranational relations requires extra information about the activities of institutions located outside the jurisdiction of the national authorities. No national central bank or parliament has access to all the required information about financial institutions located outside of its territory. However, the activities of these banks influence the banking sector and they cannot exercise authority over the cross-border financial institution. At the same time, the national supervisory institution does not have enough information about the financial institutions that are established in its territory, and whose activities go beyond national boundaries. Monitoring these institutions is difficult for the national mechanisms.

Therefore, the national authorities are not able to extend robust supervisory mechanisms to these cross-border entities, and may provide troubled banks across the border with capital flow while having no control over the capital injection’s effects. Another possibility is that the national authorities may not provide enough funds to troubled institutions due to a lack of information and control, which in turn leads to financial instability.

Moreover, national supervisors are more vulnerable to regulatory capture. Both of these elements undermine financial stability, and therefore, combining these three objectives is not possible at the national level. In this regard, Benoît Cœuré, member of the ECB’s executive board stated that: “by setting the incentives correctly, a fully-fledged banking union permits an internalization of this externality, making sure that banks strengthen their capital and liquidity on sunny days and can continue to lend on rainy days”.

Additionally, in a highly integrated financial system such as the European Union, reducing moral hazard and excessive risk-taking requires a consistent set of regulatory incentives, based not only on common rules but also on integrated supranational powers in banking supervision. Therefore, integration in the banking sector that underlies the financial integrated market is necessary to stop reckless risk-taking by banks in the internal market[8].

The question if a banking union would have prevented the sovereign debt crisis was addressed in a paper of the International Monetary Fund, entitled *“Would a banking union have prevented this crisis?”*. The conclusion was that, arguably, it would not have halted the sovereign debt crisis in some countries. But a well-functioning banking union could have substantially weakened, if not broken, the adverse sovereign-bank-growth spirals, maintained depositor confidence, and attenuated the liquidity and funding freezes that followed.

The rate cuts of the European Central Bank would more likely have fed through to lower borrowing costs for the private sector. A strong banking union would also have limited the concentrated exposures of banks to certain risks. For example, euro-area-wide supervisors would arguably not have allowed size, structure and concentration risks to grow as they did in countries such as Spain, Ireland, or Cyprus, or for general banking weaknesses to have accumulated in some other places. That said, as the United States and other recent experiences suggest, supervision would have had to strive to be of a high standard. Merely reorganizing supervisory structures would not of itself have addressed the buildup of systemic risk or the too-big-to-fail problem[9].

## 3. Conclusions

As a conclusion, the study focused on the European Banking Union a project, a long debated subject nowadays, a topic of high interest which is believed to be a solution to the financial crisis.

In the first part, there were covered the steps towards a Banking Union, mainly from the legal point of view, steps which were passed by the European leaders in a fast manner, given its importance in crisis context and for the architecture of the European Union.

Second part, tried reveal to why Economic and Monetary Union needs a Banking Union and why it is

[8] European Union Towards the Banking Union, Single Supervisory Mechanism and Challenges on the Road Ahead, Mandana Niknejad, European Journal of Legal Studies, (2014) 7(1) EJLS 92, accessed February 15, 2015, http://www.ejls.eu/15/186UK.htm..

[9] A Banking Union for the Euro Area, International Monetary Fund, prepared by Rishi Goyal, Petya Koeva Brooks, Mahmood Pradhan, Thierry Tressel, Giovanni Dell'Ariccia, Ross Leckow, Ceyla Pazarbasioglu, and an IMF Staff Team 1, authorized for distribution by Reza Moghadam, February 13, 2013, pg. 8.

seen as a potential solution for the financial crisis. Is it real solution and not a disguised form of centralising power and decisions at the European Union level? Like the debate on euro currency, there is not a single answer, because there will always be Euro sceptics to deny and question the decision taken at European level. And this project is natural to be questioned having in mind, first of all, that in implies a transfer of sovereignty from national to European level.

My opinion is that the arguments for the first view, that Banking Union is a real solution to the financial crisis, are strong and, in the same time, relevant. But, their authenticity is to be confirmed in practice. What is for sure is that this new architecture is to reduce the negative effects of a future crisis, if it doesn't succeed in preventing it at all.

As a suggestion for future researches, I believe that an interesting paper would consist into analysing the "pros" and the "cons" for a non-euro member state to enter in a close cooperation with the European Central Bank before adopting the euro currency.

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